1951 K **File No.** O. Hagga Prohibition | 51

Legal Dept.

A. **BRANCH**

Subject:— opinions under the Bombay Hagga Prohibition Act 1839.

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C O N T E N T S.

Legal Department File No. Hagga Prohibition/51

Serial No.	R.I./O.No.	Subject	Pages.
		Opinions under the Bombay Hagga Prohibition Act, 1939	
1	13536 23-8-1951	Whether it is open to Govt. t repudiate the right of the Inamdar of a former state to levy tax and also, to prohibit him from levying it.	1-8

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8 Copies.

Office of the R.L.A.

In his opinion No. 15234 dated the 1st November 1950, R.L.A. had advised that the Inamdar of Chinchali who is claiming an immemori-al right to levy Shingoti tax appears to have documentary evidence in his support and therefor the levey thereof should be prohibited by an order under the Bombay Haqqa Prohibition Act, 1839. The Finance Department in its notes at pp. 273-274 ante agrees that the tax should be abolished but has observed that "if it is proved that the Shingoti tax formed part of the Inam some compensation will have to be paid to the Inamdar". The Revenue Department observes in this connection that "the Prime Minister of Kolhapur has held that the tax is a part and parcel of the Inam and is therefore continuable so long as the Inam lats", and states that this view of the then Prime Minister requires to be deeply gone into. The papers are accordingly referred to this office with a request to offer remarks on this point and also to scrutinise the draft notification under the Bombay Haqqa Prohibition Act, 1839.

2 The Inamdar has produced a Sanad granted to him in the year 1783 A.D. by Raja Shiv Chhatrapati Confirming the old grant which is at p. 89 ante. It is stated in the sanad" तानूरून स्वामी कुटोवरी कृपाळू होऊन कुलवाब कुल कानू हली पेरा व पेसारपटी इक तेरा जावान तिथी निशेव सहीत खेरीज इकदार व इनामदार करून मोडे चिंचणी —— हा गाव देहराम पुरे इनाम करार करून दिल्हा असे. "

The words " कुलवाब " and "कुलकानू" have been interpreted in Amrit Vs. Hari, 22 Bom.L.R. 275 and they mean "all taxes and assessments". The sanad, therefore, appears to grant to the grantee not only the solid of the village but also all

the taxes and other revenues leviable in the village by the soverign. According to the strict interpretation of the Sanad, therefore, the Inamdar may be entitled to levy the Shingo -ti tax which he appears to be levying ever since the year 1785 and perhaps even earlier; and the view expressed by Shri D.A.Surve, the then Prime Minister of Kolhapur in his endorse ment No. D.1468-H/47 dated the 11th November 1947 that the tax is no more and no less than a part and parcel of the Inam itself and there fore is continuable so long as the Inam [illegible] lasts appears to be correct The grant in this case, was, however, made by the Raja of Kolhapur and the Kolhapur State has now been merged in the State of Bombay. After merger it is open to this Government to recognise or disregard the rights acquired by the Inamdar under the former Government and the Inamdar cannot insist that all his rights should be recognised in full by this Governmen Upon a treaty of cession, an in-habitant of the ceded territory can only make good in the municipal courts established by the new Sovereign such rights as that sovereign has recognised ; and not the rights enjoyed under the rule of his predecessors"(see Vajeshinghji vs. Secretary of State, 26 Bom. L.R.1143(P.C.) The levy of Shingoti tax by the Inamdar which is in the nature of a sales tax has been found to be objectionable by this State on the groun of public policy and in the circumstances it is open to Government to repudiate the Inamda 's right to levy the tax and also to prohibit him fromlevying it. On such repudiation no compensation would be legally payable to the

Inamdar. The tax may also be abolished by issue of a notification under the Bombay Haqqa Prohibitation Act, 1839.

3 A revised draft notification is forwarded herewith. The words"after the abolition or relinquishment thereof by Government" used in section 1 of the Bombay Haqqa Prohibition Act connote that the steps to abolish the tax are a condition precedent to the issue of a notification (see J.H.Pelly Collector of Customs for Gujerat and the Conk an Vs. Nusserwanjee Pestonjee, Sudder Dewanee Adawlut Reports, 1820-1840, p. 231). It is proposed by the Revenue Department not to concede the right of the Inamdar to the Shingoti tax. The notification should, therefore, be issued after the issue of the Resolution.

Id./..... 21/8

Remembrancer of Legal Affairs.

U.R. to R.D.No. 13536 dated the 23rd August 1951.

SMR 22-6-56
4 Copies.

NOTIFICATION

Revenue Department,

Bombay Castle, August 1951.

The Bombay Haqqa Prohibition Act, 1839.

No. -In exercise of the powers conferred by section 1 of the Bombay Haqqa Prohibition Act, 1839(Bom.XX of 1839), the Government of Bombay is pleased to prohibit the levy by, or on behalf of Subrao Rachojirao Jadhav, Inamdar of Chinchali of a tax known as Shingoti tax from any person or persons at the Mayakka Fair held in the village Chinchali in Raibag Mahal of the Belgaum District.

By order of the Governor of Bombay,

Secretary to Government.

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4 Copies.